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8 UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA  
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10 ROBERT EVAN BOURNE,  
11 Plaintiff,

12 v.

13 ELDON VAIL, *et al.*,  
14 Defendants.

Case No. C09-5199 BHS/KLS

REPORT AND  
RECOMMENDATION

**NOTED:**  
**July 10, 2009**

15 This civil rights action has been referred to United States Magistrate Judge Karen L.  
16 Strombom pursuant to Title 28 U.S.C. §§ 636(b)(1) and Local MJR 3 and 4. The Court is advised  
17 by Plaintiff Robert Evan Bourne that he no longer wishes to pursue this action. Dkt. 10.  
18 Accordingly, the undersigned recommends that this action be dismissed pursuant to Rule 41(a)(1)  
19 of the Federal Rules of Civil Procedure.

20 **DISCUSSION**

21 Mr. Bourne's application to proceed *in forma pauperis* was granted on April 24, 2009. Dkt.  
22 5. On May 19, 2009, the Court denied Mr. Bourne's request for counsel. Dkt. 8. The Court also  
23 directed Mr. Bourne to file an amended complaint or to show cause why this action should not be  
24 dismissed. Dkt. 9. The Court advised Mr. Bourne of the deficiencies in his original complaint and  
25 provided guidance as to the requirements and substance for filing an amended complaint in  
26 compliance with the requirements for stating a claim under § 1983. *Id.* Mr. Bourne was given a  
27 deadline of June 12, 2009 to file an amended complaint or show cause. *Id.* at p. 8.  
28

1 Mr. Bourne did not amend his complaint or show cause. Instead, on May 28, 2009, he filed  
2 a letter addressed to the Clerk/U.S. District Court stating, in relevant part:

3 “Drop the suit. I can see now I cant get justice in no court in WA State, whether it be  
4 state or Federal. I believe all courts in this state are kangaroo courts. I knew the  
5 deck was stacked against me when the Judge refused to appoint me an attorney. I  
6 asked for help in addressing my Amendment violations and you denied it. I haven’t  
7 always been a criminal. I got my training in the U.S. Marine Corps many years ago.  
8 Like I said, drop the suit. I cant get a fair shake in this state no matter what I do.

9 Dkt. 10, pp. 1-2.

10 Rule 41(a)(1) of the Federal Rules of Civil Procedure provides, in pertinent part:

11 [A]n action may be dismissed by the plaintiff without order of court (i) by  
12 filing a notice of dismissal at any time before service by the adverse party of  
13 an answer or of a motion for summary judgment, whichever first occurs . . . .

14 No adverse party has yet been served in this action.

15 Mr. Bourne has asked this Court to “drop his suit.” The undersigned recommends that Mr.  
16 Bourne’s letter be construed as a request for voluntary dismissal of this action.

### 17 CONCLUSION

18 The Court should dismiss this action without prejudice.

19 Pursuant to 28 U.S.C. § 636(b)(1) and Rule 72(b) of the Federal Rules of Civil Procedure,  
20 the parties shall have ten (10) days from service of this Report and Recommendation to file written  
21 objections. *See also* Fed. R.Civ.P. 6. Failure to file objections will result in a waiver of those  
22 objections for purposes of appeal. *Thomas v. Arn*, 474 U.S. 140 (1985). Accommodating the time  
23 limit imposed by Rule 72(b), the clerk is directed to set the matter for consideration on **July 10,**  
24 **2009**, as noted in the caption.

25 DATED this 16th day of June, 2009.

26 

27 Karen L. Strombom  
28 United States Magistrate Judge